IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

RP.No. 371 of 2007(P)

AGAINST THE JUDGEMENT IN WPC.3927/2007 Dated 23/02/2007
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REVIEW PETITIONER/4TH RESPONDENT IN W.P.(C)

KERALA STATE BEVERAGES
(MFG & MKTG) CORPORATION LTD,
REPRESENTED BY ITS MANAGING DIRECTOR,
SASTHAKRIPA OFFICE COMPLEX, SASTHAMANGALAM P.O.,
THIRUVANANTHAPURAM 695 010.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS: PETITIONER-RESPONDENTS 1 TO 3 & 5 IN W.P(C)
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1. SHRI.THOMAS JOSEPH, AGED 52 YEARS,
S/O.JOSEPH, ALANCHERIL HOUSE,
RAMANKARI KARA, ALAPUZHA DISTRICT.

2. STATE OF KERALA,
REPRESENTED BY SECRETARY,
DEPARTMENT OF EXCISE,
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

3. THE COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM.

4. THE ASSISTANT EXCISE COMMISSIONER,
KOTTAYAM.

5. THE MANAGER,
KERALA STATE BEVERAGES CORPORATION,
KOTTAYAM.

R1 SRI.V.PHILIP MATHEW

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

R.P.No.371 OF 2007

Dated this the 3rd day of April, 2007

O R D E R

This review petition is filed by the 4th respondent in the writ petition.

2. The writ petition was filed complaining about the proposed location of IMFL outlet of the review petitioner. When the matter came up for admission, it was submitted by the standing counsel for respondents 4 and 5 that there is no proposal to shift the shop to the location in question, at that time. This was recorded and the writ petition was closed. This means, there was no adjudication on merits.

3. This review petition is filed by the 4th respondent Kerala State Beverages (Manufacturing & Marketing) Corporation Ltd. contending that the submission made before Court on 23.2.2007, leading to the disposal of the writ petition, was on a mistake of

fact that occurred in the communication between the 4th respondent and the counsel. It is pointed out that the submission made on behalf of respondents 4 and 5 was factually wrong and was erroneous as stated above.

4. The judgment dated 23.2.2007 was, obviously, issued without considering the merits of the matter and on the aforesaid premise. Hence the said judgment is recalled.

The review petition is allowed as above. The writ petition will, therefore, be listed for admission as per the roster.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.